

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated February 8, 2007.

Claims 1-38 are currently pending in the instant application. At the outset, Applicant gratefully acknowledges the indication of allowable subject matter in claims 6-16, 25-26, and 34-37.

In the Office Action, claims 1-2, 33, and 38 were rejected under 35 U.S.C. § 102(b) as being anticipated by Zvenyatsky (5,383,888). Claims 3-5, 17-20, 23-24, 27-30, 33, and 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zvenyatsky, in view of Forman (5,275,608).

Claim 1 calls for an “insertion section comprising first and second driving rods which are disposed side by side and each of which has a distal end portion and a proximal end portion.” In the Office Action, the Examiner asserts that the first and second driving rods, as recited by claim 1, are disclosed by elements 78 and 58 of Zvenyatsky (e.g., see, Office Action, page 2). However, with reference to col. 5, lines 5-6; col. 6, lines 6-8; and Fig. 2, Zvenyatsky teaches that element 58 is a cable as opposed to a rod. Therefore, Zvenyatsky does not teach or suggest first and second rods, as recited by claim 1.

Moreover, claim 1 calls for “a sliding member which supports at least one of the pair of jaws” and “the sliding member being pivotally supported on the distal end portion of the connecting rod.” The Examiner asserts that the connecting rod, as recited by claim 1, is disclosed by a link rod 94, as taught by Zvenyatsky, and asserts that the sliding member, as recited by claim 1, is disclosed by a yoke 56, as taught by Zvenyatsky. However, with reference to Fig. 2 of Zvenyatsky, the yoke 56 is not attached to the connecting rod 94 (e.g., see Zvenyatsky, col. 5, lines 1-9 and 25-35). Rather, the yoke 56 is attached to the cable 58 (e.g., see Zvenyatsky, Fig. 2).

Zvenyatsky, therefore, fails to anticipate claim 1 because it fails to show or even suggest each and every limitation therein. Accordingly, as Zvenyatsky does not anticipate claim 1, it is respectfully requested that the rejection under 35 U.S.C. §102(b) of claim 1 be withdrawn.

Regarding the rejections of independent claims 33 and 38 under 35 U.S.C. §102(b), claims 33 and 38 include similar limitations as those contained in claim 1. Namely, claim 33 recites “first and second driving rods which are disposed side by side and each of which has distal and proximal end portions” and “a sliding member which is supported by at least one of the pair of jaws, and slid in an axial direction of the support to relatively open/close the pair of jaws, and connection means having rigidity which connects the distal end portion of the first driving rod to the sliding member;” and claim

38 recites “first and second driving rods which are disposed side by side and each of which has distal and proximal end portions” and “a sliding member which is supported by at least one of the pair of jaws, and slid in an axial direction of the support to relatively open/close the pair of jaws, and a connecting rod which has distal and proximal end portions, the sliding member being pivotally supported on the distal end portion of the connecting rod, and the distal end portion of the first driving rod being pivotally supported on the proximal end portion of the connecting rod.” Therefore, for at least the same reasons as stated above with respect to the rejection of claim 1 under 35 U.S.C. § 102(b), Zvenyatsky fails to teach or suggest each and every limitation of claims 33 and 38. Accordingly, as Zvenyatsky does not teach or suggest each and every limitation of claims 33 and 38, it is respectfully requested that the rejection of claims 33 and 38 under 35 U.S.C. § 102(b) be withdrawn.

Regarding the rejection of claims 33 and 38 under 35 U.S.C. § 103(a), these claims were discussed above with respect to the rejections under 35 U.S.C. § 102(b). Moreover, as Forman, which teaches an endoscopic instrument including a connection 19 which is provided when utilizing surgical instruments requiring an energy supply, does not cure the deficiencies of Zvenyatsky, claims 33 and 38 are not rendered obvious by the combination of Zvenyatsky and Forman. Accordingly, because neither Zvenyatsky nor Forman, either alone or in combination with another reference, does not teach or suggest each and every limitation of claims 33 and 38, it is respectfully requested that the rejection of claims 33 and 38 under 35 U.S.C. § 103(a) be withdrawn.

With no intention to limit the scope of the claims, it is noted that an effect and advantage of the present surgical instrument is that in any rotational position of the treatment section 3, e.g., between 0° to 90° with respect to the insertion section 2, the treatment can be carried out while the tip-tool (e.g., first and second jaws 101, 102) has a sufficient opening/closing force and maintains an optional opening/closing angle. Thus, as described in the specification, the surgical instrument is usable, for example, when a tissue is dissected from a blood vessel stuck to the biomedical tissue.

In contrast, since Zvenyatsky applies the cable indicated by a reference numeral 58, such effect and advantage is not obtainable.

Lastly and with respect to the 35 U.S.C. § 103(a) rejection, note that the connector 19 described in Forman et al. is a connecting portion which supplies energy to the head 12. This is not related at all to the structure of the surgical instrument recited in claims 1, 33 and 38.

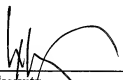
The application is now believed to be in condition for allowance.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims and pass this case to issue.

Respectfully submitted,

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